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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/633,496 | 08/05/2003 | Ben Hsu | BHT-3125-156 | 5199 |

7590 03/10/2004

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| EXAMINER |
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BRITTAIN, JAMES R

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| ART UNIT | PAPER NUMBER |
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3677

DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---------------------------------|--|
| Office Action Summary | Application No. 10/633,496 | Applicant(s) HSU, BEN | |
| | Examiner James R. Brittain | Art Unit 3677 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

Claim 1 is objected to because of the following informalities: The passage "the bottom ends" (lines 4-5) lack clear antecedent basis. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The passage "wherein a clamping passage is defined at the bottom ends of the base and the arc flexible plate there-between for both lateral sides of a shower curtain to be pushed there-through for clamping location at the fixing clip therein" (claim 1, lines 4-7) is misdescriptive of the function of the device because only one lateral side of a shower curtain is secured in a fixing clip. The other lateral side of the shower curtain would be received in a different fixing clip. The claims are considered drawn to single fixing clip subcombination alone as indicated in line 1 of claim 1 and the claims are examined on the basis of this interpretation. The remaining claims are indefinite because they depend from an indefinite claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

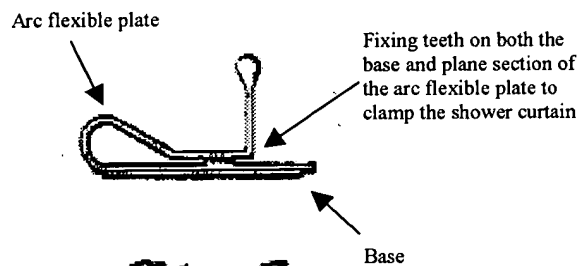
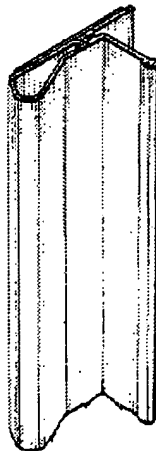
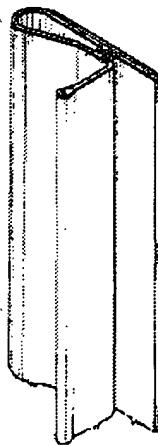
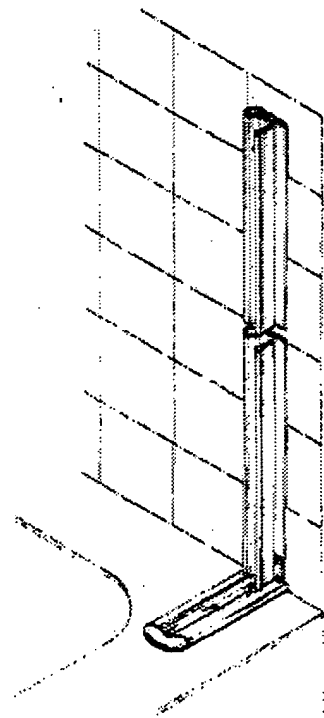
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olson (US D284024) in view of Cairns (US 4887324).

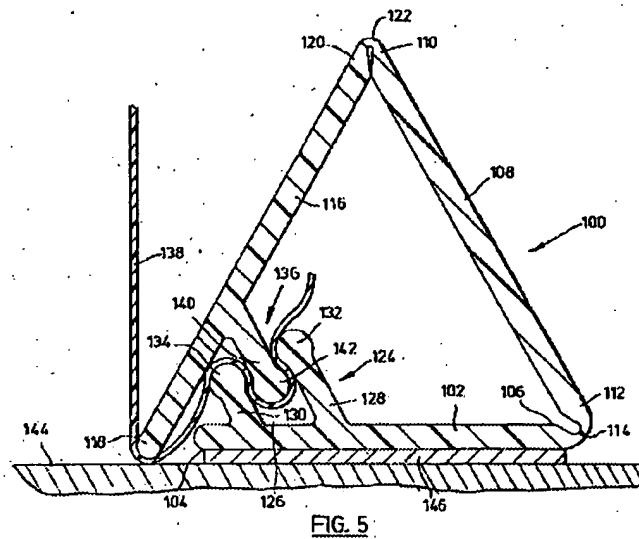
Olson (figures 1-3, 8) teaches a side hook for a shower curtain, mainly made up of a fixing clip having a base and an arc flexible plate disposed at the other side thereof in clamping abutment with the base thereof wherein a clamping passage is defined at the bottom ends of the base and the arc flexible plate there-between for both lateral sides of a shower curtain to be pushed there-through for clamping location at the fixing clip therein.

*Fig. 3.**Fig. 1.**Fig. 2.**Fig. 8.*

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One having ordinary skill in the art would recognize that Olson suggests an adhesive layer on the base to secure it to the shower stall wall. However, this is not stated in Olson. The difference is that a double-sided adhesive tape is not used on the base to secure it to the shower stall.

However, Cairns (figure 5) teaches fixing clip structure 100 for a shower curtain 138 wherein it is advantageous to utilize double-sided adhesive tape 146 for ease of assembly.



As ease of assembly of the fixing clip of Olson is desirable in order to be efficient, it would have been obvious to modify the fixing clip of Olson so as to utilize double-sided adhesive tape as suggested by Cairns so as to make assembly easier.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents of Wear et al. (US 4899974, figure 5), Redman et al. (US 5274859, figures 1, 2 and note the use of double sided adhesive tape 70 as indicated in col. 3, lines 30-31), Mayers (US 3350045, figure 3), Adams et al. (US 6453518, figures 1, 7), Wallace (US D316028,


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figures 3-6), Lonberger (US 4825481, figures 1-3), Eagles et al. (US 1467928, figures 1-4), Schnabel (US 3395428, figure 3), May (GB 2298891, figure 4), and Hausch (DE 3150660, figures 1-5) teach pertinent fastener structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on M, W & F 5:30-1:30, T 5:30-2:00 & TH 5:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James R. Brittain
Primary Examiner
Art Unit 3677

JRB